

FINAL



Town of Southern Shores

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Planning Board Meeting

August 21, 2017

5:30 p.m., Pitts Center

MEETING MINUTES

I. CALL TO ORDER:

Chairperson Sam Williams called the meeting to order at 5:30 pm. Planning Board Members David Neal, Jay Russell, alternate member Joe McGraw, ETJ Representative John Finelli and Town Planner Wes Haskett were present.

II. PLEDGE OF ALLEGIANCE:

Chairperson Williams led the Pledge of Allegiance.

III. APPROVAL OF AGENDA:

Chairperson Williams stated that an election of Vice Chairperson should be added to the agenda under New Business following the resignation of Vice Chairperson Gray Berryman. Jay Russell motioned to approve the agenda as amended. Joe McGraw seconded the motion. The motion passed unanimously (5-0).

IV. APPROVAL OF MINUTES:

Joe McGraw motioned to approve the minutes from the June 19, 2017 Planning Board meeting. David Neal seconded the motion. The motion passed unanimously.

David Neal motioned to approve the minutes from the August 7, 2017 Special Planning Board meeting. Joe McGraw seconded the motion. The motion passed unanimously.

V. PUBLIC COMMENT:

Willo Kelly, Government Liaison for the Outer Banks Homebuilders Association and Outer Banks Realtors Association, stated that building height measurement in Southern Shores has been discussed for years. The main concern is using the lowest corner of the proposed structure to measure building height which may limit owners who own irregularly shaped lots to build in a hole. As a result, the lots become stormwater retention areas. There have been cases where a buyer purchases a lot, realizes that they cannot build a home how they would like to build it, and as a result, try to sell it again.

Gerri Sullivan stated that she had to revise her building plans in order to meet the building height requirements. When someone buys property in Southern Shores, they should know the rules. The Town is going through a good process for considering changes to the Town Code, do not take a risk and not make the right decision.

VI. NEW BUSINESS:

A. Election of Vice Chairperson

David Neal nominated Elizabeth Morey who was not present. David Neal nominated Joe McGraw. Wes Haskett stated that Joe McGraw was currently an alternate member and cannot be elected as Vice Chairperson. Chairperson Williams tabled the election of a Vice Chairperson until the next meeting.

- B. ZTA-17-02: Zoning Text Amendment application (ZTA) submitted by Jeffrey H. Haskett Homes, Inc., to amend Section 36-57 and Section 36-202 of the Southern Shores Town Code to establish new building height requirements (discussion may carry over to Old Business).

Casey Varnell, the applicant's representative, explained why the ZTA was submitted and what it was proposing. He acknowledged that the Board's draft amendments to the Town's building height requirements, as part of the Town Code Update project, included eliminating the top plate height requirement which he requested to remove from ZTA-17-02. He listed the building height requirements from other local jurisdictions and stated that no one else uses the lowest corner of the proposed structure. Using the lowest corner impacts what property owners would like to do. Subsection (c) of the proposed language was included since just using the average of the corners would not bring 132 Bent Oak Ct. into compliance with respect to its building height violation. Subsection (c) allows the use of up to five feet of fill which would apply to all lots, however, there is no proposed language that addresses stormwater since it would entail more discussion.

Casey Varnell presented the Board with photos of vacant lots in the Town and explained the Town of Duck's height and fill requirements.

The Board expressed concerns with the proposed ZTA, including subsection (c) and the definition of "pre-disturbed lot condition." The Board discussed the timing of their proposed changes to the building height requirements as part of the Town Code Update project and if language in the ZTA could be included. Chairperson Williams clarified that the Board could recommend approval or denial of the ZTA to the Town Council. At the last meeting, the Board decided on proposed changes to the building height requirements but made no recommendation in the event the Board liked something in ZTA-17-02.

Wes Haskett presented the staff report (attached).

The Board continued its discussion of ZTA-17-02 and agreed that it was confusing and too technical. David Neal motioned to recommend denial of ZTA-17-02 to the Town Council. Jay Russell seconded the motion. The motion passed (4-0) with John Finelli not voting since ZTA-17-02 only applied to the Town's RS-1 zoning district and did not include the Martin's Point ETJ area. Chairperson Williams motioned to approve that the ZTA is consistent with the Town's currently adopted Land Use Plan and that it is considered reasonable and in the public's interest. Jay Russell seconded the motion. The motion passed (4-0).

VII. OLD BUSINESS:

A. Town Code Update Module One Discussion

The Board continued its discussion of building height calculation requirements and potential amendments which primarily involve using the average elevation of the existing grade at the corners of a structure, base flood elevations and elimination of the current top plate height requirement. The Board agreed that the proposed language was simple and would be easier for everyone involved when a new house is proposed. David Neal motioned to recommend approval of their proposed language to the Town Council. Joe

McGraw seconded the motion. The motion passed (4-0) with John Finelli not voting since ZTA-17-02 only applied to the Town's RS-1 zoning district and did not include the Martin's Point ETJ area. Chairperson Williams motioned to approve that the proposed language is consistent with the Town's currently adopted Land Use Plan and that it is considered reasonable and in the public's interest. Joe McGraw seconded the motion. The motion passed (4-0).

Chairperson Williams noted that at the August 7, 2017 Special Meeting, the Board did not vote on Land Use Plan consistency regarding the proposed changes to the Town's current lot coverage requirements. Chairperson Williams motioned to approve that the proposed language is consistent with the Town's currently adopted Land Use Plan and that it is considered reasonable and in the public's interest. Joe McGraw seconded the motion. The motion passed (4-0) with John Finelli not voting since ZTA-17-02 only applied to the Town's RS-1 and R-1 zoning district and did not include the Martin's Point ETJ area.

VIII. PUBLIC COMMENT:

Matt Neal stated that there are vacant lots remaining in the Town with elevations that are less than 5 ft. above mean sea level. There are also lots with elevations that are extremely sloped which could be revisited with respect to building height.

IX. PLANNING BOARD MEMBER COMMENTS:

David Neal stated that he agreed with Matt Neal, that there are some lots with very steep slopes.

X. ANNOUNCEMENTS:

Chairperson Williams announced that a Special Planning Board meeting will be held on September 6, 2017 to continue discussion of Module One of the Town Code Update project.

XI. ADJOURNMENT:

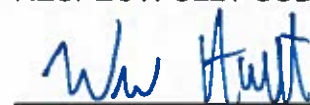
Joe McGraw motioned to adjourn. Jay Russell seconded the motion. The motioned passed unanimously and the meeting adjourned at 7:30 p.m.

ATTEST:



Sam Williams, Chairperson

RESPECTFULLY SUBMITTED:



Wes Haskett, Town Planner

STAFF REPORT

To: Southern Shores Planning Board
Date: August 17, 2017
Case: ZTA-17-02
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: Jeffrey H. Haskett Homes, Inc.
85 Trinitie Trl.
Southern Shores, NC 27949

Applicant's Representative: Casey C. Varnell, Attorney
P.O. Drawer 1027
Kitty Hawk, NC 27949

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-57 and Section 36-202 of the Southern Shores Town Code to establish new building height requirements.

ANALYSIS

The applicant is proposing to amend Section 36-57 and Section 36-202 of the Town Zoning Ordinance to establish new building height requirements in the RS-1, Single-family Residential zoning district. Currently, Section 36-202, (d), (7), (b) establishes a maximum building height of 35 feet which is measured from the lowest elevation of the finished grade or the original grade, whichever is lower, at the corners of the structure. Section 36-202, (d), (7), (a) establishes a maximum top plate height of 26 feet which is measured from the average ground elevation to the top of the highest top plate.

The applicant is proposing to maintain a maximum building height of 35 feet and a maximum top plate height of 26 feet using the current method of calculation in all zoning districts other than the RS-1, Single-family Residential zoning district. The proposed method for calculating maximum building height in the RS-1, Single-family Residential zoning district uses the average elevation of the finished or original grade, whichever is lower, at the corners of the structure. The proposed method for calculating the maximum top plate height in the RS-1, Single-family Residential zoning district uses the average elevation of the finished or original grade, whichever is lower, at the corners of the structure which is identical to the current top plate height requirement.

A proposed exception for calculating the maximum building and top plate height in the RS-1 Single-family Residential zoning district would apply in the following situation: In the event one corner of the building footprint is more than five feet lower than the elevation of the highest corner of the building footprint, that corner may be filled, either by grading materials from other locations on the lot or by bringing in like-kind material, no higher than five feet which shall be considered the original grade elevation of that corner. In the event the Town wishes to keep them in place in the RS-1 Single-family Residential zoning district, the applicant has also submitted a proposal to maintain the current maximum building height and top plate height calculations on oceanfront lots and any lot in which the lowest natural grade elevation of any

corner of the building footprint is more than ten feet above the highest point of the finished grade of any adjacent property.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan and Town Staff recommends that the Board consider this when making its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.